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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,950	06/25/2003	Lonnie L. Lawrence	LAWR.7	3144
38055	7590	05/26/2005	EXAMINER	
TIM COOK P.O. BOX 10107 LIBERTY, TX 77575			MORAN, KATHERINE M	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 05/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/603,950

**Applicant(s)**

LAWRENCE

**Examiner**

Katherine Moran

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 24 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/25/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of claims 1-23 in the reply filed on 3/25/05 is acknowledged. Claims 24 and 25 are withdrawn as being non-elected. Claims 1-23 are pending.

### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities: delete "c." in line 7. Appropriate correction is required.

### ***Specification***

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: An ornamental link (claim 2). It is not clear how ornamentation includes both an ornamental link and ornamental strand. Also, claim 4 recites a catch. However, the specification recites a catch plate. Claim 6 recites a shortened nail lapel pin. Claim 16 recites a battery supported electrically lighted display. Claim 17 recites at least one additional ornamental end member is a magnetized golf ball marker plate.

***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the battery supported electrically lighted display of claim 16 and the ornamental end member in the form of a magnetized golf ball marker plate of claim 17 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites an ornamental end member adapted to attach... The phrase "adapted to attach" does not positively recite the ornamental end member in attachment with the strand. Claim 7 recites "the coil". Claim 9 recites "defining a gap between the plate to receive the edge of a hat type visor". It is unclear what two elements are present to form a gap therebetween. Claims 14 and 15 recite the limitation "the additional ornamental end member". There is insufficient antecedent basis for this limitation in the claims. Claims 11 and 12 recite a limitation which is previously recited in claim 1, line 3. Claim 19 recites a sphere with a flattened surface. It is not clear how an object can be called a sphere when one of its surfaces is flattened. Please clarify.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

8. Claims 1-7, 10-15, 18, and 20-23 are rejected under 35 U.S.C. 102(a) as being anticipated by Lawrence (U.S. 6,655,558). Lawrence discloses the invention as claimed. Lawrence teaches a wearable ornamentation 10 that simultaneously grips the top and bottom surfaces of a hat type visor having a thickness comprising: a flexible and reversible ornamental strand 16 having first and second ends and ornamental, releasably attached, and molded sphere end members 12, 14 adapted to attach to each end of the strand, wherein the strand and respective end member define a gap less than the thickness of the visor, as is apparent by the fact that the visor is held between the two. The ornamental end members and strand are formed from polymers. The ornamental strand 16 is a "U" shaped, expandable coil along at least a portion of its length as shown in Figure 5, including an eyelet 34 on one end to releasably attach an additional ornamental member with a back adapted to snap into the eyelet. Lawrence

teaches in col. 5, lines 46-49 that the strand could include other means of attaching an ornament such as a threaded hole to releasably attach a second ornamental member with a nail type back adapted to slip into the catch. The end of the coil includes a post or nail lapel pin to releasably attach the second ornamental end member with a hole 26 adapted to slip onto the post as shown in Figures 1-3. With regard to claim 10, the additional ornamental end member 30 is a three-dimensional object. The ornamental strand 16 is reversible in that it may be reversed in position. With regard to claims 20 and 21, the end members could be used for a logo or advertising. The recitations of claims 20 and 21 are intended use recitations of the end members and as such, are not given patentable weight.

9. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Knutson (U.S. 5,530,970). Knutson discloses the invention as claimed. Knutson teaches a wearable ornamentation that simultaneously grips the top and bottom surfaces of a hat type visor having a thickness comprising a flexible and reversible ornamental strand coil 16 having first and second ends, and an ornamental end member 22 adapted to attach to at least one end of the strand, wherein the strand and end member define a gap less than the thickness of the visor as shown in Figure 3.

10. Claims 1, 8-10, 18, and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Sierkerski (U.S. 6,470,709). Sierkerski discloses the invention as claimed. Sierkerski teaches a wearable ornamentation which could grip the top and bottom surfaces of a hat type visor having a thickness comprising a flexible and reversible ornamental strand 160 in the form of a "U" shaped plate 164 having first and second

ends, and an ornamental end members in the form of spheres 166,168 adapted to attach to at least one end of the ornamental strand. The plate is expandable to receive the edge of a hat type visor.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lawrence '558 in view of Paterson (U.S. 3,254,444). Lawrence discloses the invention substantially as claimed. However, Lawrence does not teach an additional ornamental end member which is a battery supported electrically lighted display. Paterson teaches an ornamental member in the form of a battery 20 supported lighted display 25 supported by a hat. Paterson teaches that it is known to provide a headwear with a lighted display to achieve a particular novelty effect. Therefore, it would have been obvious to provide Lawrence's end member with a lighted display in order to achieve a desired aesthetic effect and to allow the wearer to be seen at night.

13. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lawrence '558 in view of Marchessault et al. (Marchessault, U.S. 6,357,642). Lawrence discloses the invention substantially as claimed. However, Lawrence doesn't teach an additional ornamental end member which is a magnetized golf ball marker plate.



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Marchessault teaches that it is known in the art to provide a magnetized golf ball marker plate 14 held by a clip or ornamental strand 10 and positioned in the area of a hat's brim 23, such that the marker plate may be removed from the hat and utilized, then replaced accordingly. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to replace Lawrence's ornament with the golf ball marker plate as taught by Marchessault, to increase the versatility of the clip or ornamental strand.

14. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lawrence '558 in view of Knutson '970. Lawrence discloses the invention substantially as claimed. However, Lawrence does not teach an end member that is a sphere with a picture on a flattened surface. Applicant's specification does not disclose that this particular design provides an advantage or solves a stated problem. Knutson teaches a circular end member 22 with a picture on a flattened surface. Therefore, it would have been an obvious design choice at the time the invention was made, to modify Lawrence's sphere with a flattened surface having a picture, in order to convey a particular message or visual effect.

### ***Conclusion***

15. The prior art made of record on the attached PTO-892, and not relied upon, is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Katherine Moran at (571) 272-4990. The examiner can be reached on Monday-Thursday from 8:30 am to 6:00 pm, and alternating Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert, may be reached at (571) 272-4983. The official and after final fax number for the organization where this application is assigned is (703) 872-9306. General information regarding this application may be obtained by contacting the Group Receptionist at (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kmm

May 19, 2005



Katherine Moran

Primary Examiner, AU 3765